

production or construct farm buildings, NWP 39 cannot be used by the developer to authorize additional activities in waters of the United States on the project site in excess of the acreage limit for NWP 39 (i.e., the combined acreage loss authorized under NWPs 39 and 40 cannot exceed 1/2-acre).

Subdivisions: For residential subdivisions, the aggregate total loss of waters of US authorized by NWP 39 can not exceed 1/2-acre. This includes any loss of waters associated with development of individual subdivision lots.
(Sections 10 and 404)

Note: Areas where wetland vegetation is not present should be determined by the presence or absence of an ordinary high water mark or bed and bank. Areas that are waters of the US based on this criterion would require a PCN although water is infrequently present in the stream channel (except for ephemeral waters, which do not require PCNs).

Nationwide 39 Specific Regional Conditions

- Notification is required for all impacts to Section 10 waters and wetlands adjacent to Section 10 waters.
- Notification is required for all perennial and intermittent stream impacts.
- Notification is required for ephemeral stream impacts greater than 300 linear feet.

Ohio State Certification General Limitations and Conditions apply to this nationwide permit.

40. Agricultural Activities. Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, for improving agricultural production and the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in waters of the US; and similar activities, provided the permittee complies with the following terms and conditions:

a. For discharges into non-tidal wetlands to improve agricultural production, the following criteria must be met if the permittee is an United States Department of Agriculture (USDA) Program participant:

- (1) The permittee must obtain a categorical minimal effects exemption, minimal effect exemption, or mitigation exemption from NRCS in accordance with the provisions of the Food Security Act of 1985, as amended (16 U.S.C. 3801 et seq.);
- (2) The discharge into non-tidal wetlands does not result in the loss of greater than 1/2-acre of non-tidal wetlands on a farm tract;
- (3) The permittee must have NRCS-certified wetland delineation;
- (4) The permittee must implement an NRCS-approved compensatory mitigation plan that fully offsets wetland losses, if required; and
- (5) The permittee must submit a report, within 30 days of completion of the authorized work, to the District Engineer that contains the following information: (a) The name, address, and telephone number of the

- permittee; (b) The location of the work; (c) A description of the work; (d) The type and acreage (or square feet) of the loss of wetlands (e.g., 1/3-acre of emergent wetlands); and (e) The type, acreage (or square feet), and location of compensatory mitigation (e.g. 1/3-acre of emergent wetland on a farm tract; credits purchased from a mitigation bank); or
- b. For discharges into non-tidal wetlands to improve agricultural production, the following criteria must be met if the permittee is not a USDA Program participant (or a USDA Program participant for which the proposed work does not qualify for authorization under paragraph (a) of this NWP):
- (1) The discharge into non-tidal wetlands does not result in the loss of greater than 1/2-acre of non-tidal wetlands on a farm tract;
 - (2) The permittee must notify the District Engineer in accordance with General Condition 13, if the discharge results in the loss of greater than 1/10-acre of non-tidal wetlands;
 - (3) The notification must include a delineation of affected wetlands; and
 - (4) The notification must include a compensatory mitigation proposal to offset losses of waters of the US; or
- c. For the construction of building pads for farm buildings, the discharge does not cause the loss of greater than 1/2-acre of non-tidal wetlands that were in agricultural production prior to December 23, 1985, (i.e., farmed wetlands) and the permittee must notify the District Engineer in accordance with General Condition 13; and
- d. Any activity in other waters of the US is limited to the relocation of existing serviceable drainage ditches constructed in non-tidal streams. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively. For impacts exceeding 300-linear feet of impacts to existing serviceable ditches constructed in intermittent non-tidal streams, the permittee must notify the District Engineer in accordance with the “Notification” General Condition 13.

The term “farm tract” refers to a parcel of land identified by the Farm Service Agency. The Corps will identify other waters of the US on the farm tract. NRCS will determine if a proposed agricultural activity meets the terms and conditions of paragraph a. of this NWP, except as provided below. For those activities that require notification, the District Engineer will determine if a proposed agricultural activity is authorized by paragraphs b., c., and/or d. of this NWP. USDA Program participants requesting authorization for discharges of dredged or fill material into waters of the US authorized by paragraphs (c) or (d) of this NWP, in addition to paragraph (a), must notify the District Engineer in accordance with General Condition 13 and the District Engineer will determine if the entire single and complete project is authorized by this NWP. Discharges of dredged or fill material into waters of the US associated with completing required compensatory mitigation are authorized by this NWP. However, total impacts, including other authorized impacts under this NWP, may not exceed the 1/2-acre limit of this NWP. This

NWP does not affect, or otherwise regulate, discharges associated with agricultural activities when the discharge qualifies for an exemption under Section 404(f) of the CWA, even though a categorical minimal effects exemption, minimal effect exemption, or mitigation exemption from NRCS pursuant to the Food Security Act of 1985, as amended, may be required. Activities authorized by paragraphs a. through d. may not exceed a total of 1/2-acre on a single farm tract. If the site was used for agricultural purposes and the farm owner/operator used either paragraphs a., b., or c. of this NWP to authorize activities in waters of the US to increase agricultural production or construct farm buildings, and the current landowner wants to use NWP 39 to authorize residential, commercial, or industrial development activities in waters of the US on the site, the combined acreage loss authorized by NWPs 39 and 40 cannot exceed 1/2-acre (see General Condition 15).
(Section 404)

Ohio State Certification General Limitations and Conditions apply to this nationwide permit.

Ohio State Certification Special Conditions and Limitations for NWP 40:

This Certification shall be used only once per farm. For the purposes of this condition, farm shall be defined to include all individual farm tracts, whether or not such tracts are contiguous, that are owned by the applicant.

41. Reshaping Existing Drainage Ditches. Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the US. The reshaping of the ditch cannot increase drainage capacity beyond the original design capacity. Nor can it expand the area drained by the ditch as originally designed (i.e., the capacity of the ditch must be the same as originally designed and it cannot drain additional wetlands or other waters of the US). Compensatory mitigation is not required because the work is designed to improve water quality (e.g., by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, increase uptake of nutrients and other substances by vegetation, etc.).

Notification: The permittee must notify the District Engineer in accordance with General Condition 13 if greater than 500 linear feet of drainage ditch will be reshaped. Material resulting from excavation may not be permanently sidecast into waters but may be temporarily sidecast (up to three months) into waters of the US, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary sidecasting not to exceed a total of 180 days, where appropriate. In general, this NWP does not apply to reshaping drainage ditches constructed in uplands, since these areas are generally not waters of the US, and thus no permit from the Corps is required, or to the maintenance of existing drainage ditches to their original dimensions and configuration, which does not require a Section 404 permit (see 33 CFR 323.4(a)(3)). This NWP does not authorize the relocation of drainage ditches constructed in waters of the US; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline

of the original drainage ditch. This NWP does not authorize stream channelization or stream relocation projects.

(Section 404)

Nationwide 41 Specific Regional Condition

Notification is required for all impacts.

Ohio State Certification General Limitations and Conditions apply to this nationwide permit.

Ohio State Certification Special Conditions and Limitations for NWP 41:

- 1) This Certification only authorizes impacts to existing maintained and channelized ephemeral water conveyances.
- 2) Reshaping of existing agricultural and roadway drainage ditches greater than 200 linear feet but less than 500 linear feet in total length that have been created or previously modified and maintained for the purpose of draining abutting existing agricultural land or existing roadways shall not require an individual Section 401 Certification if either:
 - a) The ditch was man-made and is existing; or
 - b) The stream/ditch has existing entrenchment ratios that are less than 1.4 and the proposed dredging impacts do not reduce the sinuosity of the stream/ditch channel.
- 3) Prior to the commencement of the project, all drainage ditch reshaping projects must be certified in writing by either the Natural Resources Conservation Service or Soil and Water Conservation District or County Engineer in the County where the project occurs, or by a certified professional engineer, that the project complies with the above criteria. In order to be authorized under this paragraph, such certification shall be maintained by the person or entity engaged in the project and a copy shall be sent to: Ohio EPA, Division of Surface Water, Section 401 Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

42. Recreational Facilities. Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of recreational facilities, provided the activity meets all of the following criteria:

- a. The discharge does not cause the loss of greater than 1/2-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters;
- b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;
- c. The permittee notifies the District Engineer in accordance with the "Notification" General Condition 13 for discharges exceeding 300 linear feet of impact of intermittent stream beds. In such cases, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine the adverse environmental effects are minimal

both individually and cumulatively, and waive this limitation in writing before the permittee may proceed;

d. For discharges causing the loss of greater than 1/10-acre of non-tidal waters of the US, the permittee notifies the District Engineer in accordance with General Condition 13;

e. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites;

f. The discharge is part of a single and complete project; and

g. Compensatory mitigation will normally be required to offset the losses of waters of the US. The notification must also include a compensatory mitigation proposal to offset authorized losses of waters of the US.

For the purposes of this NWP, the term “recreational facility” is defined as a recreational activity that is integrated into the natural landscape and does not substantially change preconstruction grades or deviate from natural landscape contours. For the purpose of this permit, the primary function of recreational facilities does not include the use of motor vehicles, buildings, or impervious surfaces. Examples of recreational facilities that may be authorized by this NWP include hiking trails, bike paths, horse paths, nature centers, and campgrounds (excluding trailer parks). This NWP may authorize the construction or expansion of golf courses and the expansion of ski areas, provided the golf course or ski area does not substantially deviate from natural landscape contours. Additionally, these activities are designed to minimize adverse effects to waters of the US and riparian areas through the use of such practices as integrated pest management, adequate stormwater management facilities, vegetated buffers, reduced fertilizer use, etc. The facility must have an adequate water quality management measures in accordance with General Condition 9, such as a stormwater management facility, to ensure that the recreational facility results in no substantial adverse effects to water quality. This NWP also authorizes the construction or expansion of small support facilities, such as maintenance and storage buildings and stables that are directly related to the recreational activity. This NWP does not authorize other buildings, such as hotels, restaurants, etc. The construction or expansion of playing fields (e.g., baseball, soccer, or football fields), basketball and tennis courts, racetracks, stadiums, arenas, and the construction of new ski areas are not authorized by this NWP.

(Section 404)

Nationwide 42 Specific Regional Conditions

- Notification is required for all impacts to Section 10 waters and wetlands adjacent to Section 10 waters.
- Notification is required for all perennial and intermittent stream impacts.
- Notification is required for ephemeral stream impacts greater than 300 linear feet.

Ohio State Certification General Limitations and Conditions apply to this nationwide permit.

Ohio State Certification Special Conditions and Limitations for NWP 42:

This Certification shall not authorize the construction, modification or expansion of golf courses or ski areas.

43. Stormwater Management Facilities. Discharges of dredged or fill material into non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, for the construction and maintenance of stormwater management facilities, including activities for the excavation of stormwater ponds/facilities, detention basins, and retention basins; the installation and maintenance of water control structures, outfall structures and emergency spillways; and the maintenance dredging of existing stormwater management ponds/facilities and detention and retention basins, provided the activity meets all of the following criteria:

- a. The discharge for the construction of new stormwater management facilities does not cause the loss of greater than 1/2-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters;
- b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;
- c. For discharges causing the loss of greater than 300 linear feet of intermittent stream beds, the permittee notifies the District Engineer in accordance with the "Notification" General Condition 13. In such cases, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine the adverse environmental effects are minimal both individually and cumulatively, and waive this limitation in writing before the permittee may proceed;
- d. The discharges of dredged or fill material for the construction of new stormwater management facilities in perennial streams is not authorized;
- e. For discharges or excavation for the construction of new stormwater management facilities or for the maintenance of existing stormwater management facilities causing the loss of greater than 1/10-acre of non-tidal waters, excluding non-tidal wetlands adjacent to tidal waters, provided the permittee notifies the District Engineer in accordance with the "Notification" General Condition 13. In addition, the notification must include:
 - (1) A maintenance plan. The maintenance plan should be in accordance with state and local requirements, if any such requirements exist;
 - (2) For discharges in special aquatic sites, including wetlands and submerged aquatic vegetation, the notification must include a delineation of affected areas; and
 - (3) A compensatory mitigation proposal that offsets the loss of waters of the US. Maintenance in constructed areas will not require mitigation provided such maintenance is accomplished in designated maintenance areas and not within compensatory mitigation areas (i.e., District Engineers may designate non-maintenance areas, normally at the downstream end of the stormwater management facility, in existing stormwater management facilities). (No mitigation will be required for activities that are exempt from Section 404 permit requirements);

f. The permittee must avoid and minimize discharges into waters of the US at the project site to the maximum extent practicable, and the notification must include a

written statement to the District Engineer detailing compliance with this condition (i.e. why the discharge must occur in waters of the US and why additional minimization cannot be achieved);

g. The stormwater management facility must comply with General Condition 21 and be designed using BMPs and watershed protection techniques. Examples may include forebays (deeper areas at the upstream end of the stormwater management facility that would be maintained through excavation), vegetated buffers, and siting considerations to minimize adverse effects to aquatic resources. Another example of a BMP would be bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources from storm flows, especially downstream of the facility, that provide, to the maximum extent practicable, for long term aquatic resource protection and enhancement;

h. Maintenance excavation will be in accordance with an approved maintenance plan and will not exceed the original contours of the facility as approved and constructed; and

i. The discharge is part of a single and complete project.

(Section 404)

Nationwide 43 Specific Regional Conditions

- Notification is required for all impacts to Section 10 waters and wetlands adjacent to Section 10 waters.
- Notification is required for all perennial and intermittent stream impacts.
- Notification is required for ephemeral stream impacts greater than 300 linear feet.

Ohio State Certification General Limitations and Conditions apply to this nationwide permit.

Ohio State Certification Special Condition and Limitation for NWP 43:

This Certification shall not authorize the construction of new stormwater management facilities.

44. Mining Activities. Revoked from use in Ohio.

C. NATIONWIDE PERMIT GENERAL CONDITIONS

The following General Conditions must be followed in order for any authorization by an NWP to be valid:

1. **Navigation.** No activity may cause more than a minimal adverse effect on navigation.
2. **Proper Maintenance.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the

earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

4. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. **Equipment.** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. **Water Quality.** (a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)). (b) For NWP's 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWP's). This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.
10. **Coastal Zone Management.** In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. **Endangered Species.** (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWPs.
- (b) Authorization of an activity by a NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal “takes” of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nfms.gov/prot_res/esahome.html respectively.
12. **Historic Properties.** No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.
13. **Notification.** (a) Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the

requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or
- (2) If notified in writing by the District or Division Engineer that an Individual Permit is required; or
- (3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
- (5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
- (6) For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
- (7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
- (8) For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
- (9) For NWP 29 (Single-Family Housing), the PCN must also include:
 - (i) Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
 - (ii) A statement that the single-family housing activity is for a personal residence of the permittee;

- (iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 1/4-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 1/4-acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));
 - (iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;
- (10) For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:
- (i) Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;
 - (ii) A delineation of any affected special aquatic sites, including wetlands; and,
 - (iii) Location of the dredged material disposal site;
- (11) For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;
- (12) For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;
- (13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;
- (14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts

of the project on the aquatic environment are minimal, both individually and cumulatively;

(15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16) For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no

more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

(e) Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. For activities requiring notification to the District Engineer that result in the loss of greater than 1/2-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (1/4-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation.

Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate

14. **Compliance Certification.** Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:
 - (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
 - (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
 - (c) The signature of the permittee certifying the completion of the work and mitigation.
15. **Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre).
16. **Water Supply Intakes.** No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.
17. **Shellfish Beds.** No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.
18. **Suitable Material.** No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the CWA).
19. **Mitigation.** The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.
 - (a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).
 - (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
 - (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 1/4-acre of wetlands cannot be created to change a 3/4-acre loss of wetlands to a 1/2-acre loss associated with NWP 39 verification. However, 1/2-acre of created wetlands can be used to reduce the impacts of a 1/2-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the “notification” may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. **Spawning Areas.** Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.
21. **Management of Water Flows.** To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary

purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow. This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.
23. **Waterfowl Breeding Areas.** Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
24. **Removal of Temporary Fills.** Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.
25. **Designated Critical Resource Waters.** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.
 - (a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.
 - (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. **Fills Within 100-Year Floodplains.** For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.
- (a) Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.
- (b) Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.
- (c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.
27. **Construction Period.** For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project). For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps. For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. ADDITIONAL INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

E. DEFINITIONS

- **Best Management Practices (BMPs):** BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development.
- **Compensatory Mitigation:** For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

- **Creation:** The establishment of a wetland or other aquatic resource where one did not formerly exist.
- **Enhancement:** Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.
- **Ephemeral Stream:** An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.
- **Farm Tract:** A unit of contiguous land under one ownership that is operated as a farm or part of a farm.
- **Flood Fringe:** That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").
- **Floodway:** The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.
- **Independent Utility:** A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.
- **Intermittent Stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.
- **Loss of Waters of the US:** Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with linear foot limits of NWPs 39, 40, 42, and 43. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.
- **Non-tidal Wetland:** A non-tidal wetland is a wetland (i.e., a water of the US) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

- **Open Water:** An area that, during a year with normal patterns of precipitation, has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWP's, this term does not include ephemeral waters.
- **Perennial Stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.
- **Permanent Above-grade Fill:** A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWP's 3, 25, 36, etc. are not included.
- **Preservation:** The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.
- **Restoration:** Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.
- **Riffle and Pool Complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.
- **Single and Complete Project:** The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations: each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies.
- **Stormwater Management:** Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.
- **Stormwater Management Facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the

quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

- **Stream Bed:** The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.
- **Stream Channelization:** The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.
- **Tidal Wetland:** A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.
- **Vegetated Buffer:** A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to open-waters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement, or preservation of aquatic habitats to ensure that activities authorized by NWP result in minimal adverse effects to the aquatic environment. (See General Condition 19.)
- **Vegetated Shallows:** Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.
- **Waterbody:** A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

F. REGIONAL GENERAL CONDITIONS:

- Notifications for all Nationwide permits should include a location map (USGS topographical map) and project drawings on 8 1/2" x 11" paper.

- Nationwide Permits shall not authorize any activity that would impact bogs and/or fens.
- No Nationwide permit may be used in Lake Erie for purposes of diverting water from the Great Lakes.
- In order to determine if a project meets the terms and conditions of the Ohio EPA's 401 water quality certification, **two copies** of the following information is necessary:
 - All wetland delineations must include the latest approved version of the Ohio Rapid Assessment Method (ORAM) for wetland evaluation, long form. (This will assist OEPA in determining the category of wetland the applicant proposes to impact.)
 - Color photographs of the wetland.

NOTE: This information is in addition to the required information listed under General Condition 13 (Notification) of the NWP.

- Notification is required for all work in Critical Resource Waters (See list below).

The following are designated as **Critical Resource Waters**:

- **Special habitat waters of Lake Erie** including the shoreline, off shore islands, rock outcrops, and adjacent waters within the boundaries defined as 82° 22' 30" West Longitude, 83° 07' 30" West Longitude, 41° 33' 00" North Latitude, and 42°33'00" North Latitude.
- In Ohio, two areas have been designated **critical habitat for the piping plover (*Charadrius melodus*)** and are defined as lands 0.62 miles inland from normal high water line. Unit OH-1, extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately 2.0 miles. Unit OH-2 extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 mile.
- **Big and Little Darby Creeks** (National Wild and Scenic River System): Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River. Little Darby Creek from the Lafayette Plain City Road Bridge downstream to within 0.8 mile from the confluence with Big Darby Creek. Total designation is approximately 82 miles.
- **Little Beaver Creek** (National Wild and Scenic River System): Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth; North Fork from confluence of Brush Run and North Fork to confluence of North Fork with main stem at Fredericktown; Middle

Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport; West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to confluence of West Fork with Middle Fork near Williamsport. Total designation is 33 miles

- **Little Miami** (Scenic component of the National System from Clifton to Foster) The portion from Foster to the Ohio River was designated a Recreational component of the National system. Total designation is 92 miles.
- Notification is required for all activities in state Wild and Scenic Rivers (see list below).

The following are **State Wild and Scenic Rivers**:

- **Little Miami River** - Clermont County line at Loveland to headwaters, including North Fork, Clermont County line at Loveland to confluence with East Fork and from the confluence with East Fork to Ohio River. Miles designated (approximate): 105
- **Sandusky River** - US Rt. 30 in Upper Sandusky to Roger Young Memorial Park in Fremont. Miles designated (approximate): 65
- **Olentangy River** - Delaware Dam to Old Wilson Bridge Road in Worthington. Miles designated (approximate): 22
- **Little Beaver Creek** –
Wild segments - West Fork from 1/4 mile downstream from Twp. Rd. 914 to confluence with Middle Fork. North Fork from Twp. Rd. 952 to confluence with Little Beaver Creek. Little Beaver Creek from confluence of West and Middle Forks downstream to 3/4 mile north of Grimm's Bridge.
Scenic segments - North Fork from Ohio-Pennsylvania line downstream to Jackman Road. Middle Fork from Elkton Rd. (Twp. Rd. 901) downstream to confluence with West Fork. Little Beaver Creek from 3/4 mile north of Grimm's Bridge downstream to the Ohio-Pennsylvania line. Miles designated (approximate): Wild 20, Scenic 16
- **Grand River** –
Wild segment - from Harpersfield covered bridge downstream to Norfolk and Western Railroad trestle south of Painesville.
Scenic segment - from St. Rt. 322 Bridge in Ashtabula County downstream to Harpersfield covered bridge. Miles designated (approximate): Scenic 33, Wild 23
- **Upper Cuyahoga River** - Troy-Burton Township line in Geauga County to US Rt. 14. Miles designated (approximate): 25
- **Maumee River** –
Scenic segment - Ohio-Indiana line to St. Rt. 24 bridge west of Defiance.
Recreational segment - St. Rt. 24 Bridge west of Defiance to US Rt. 25 Bridge near Perrysburg. Miles designated (approximate): Scenic 43, Recreational 53

- **Stillwater River System –**
Recreational segment - Englewood dam to confluence with Great Miami River.
Scenic segments - Stillwater River from Riffle Road bridge in Darke Co. to Englewood dam. Greenville Creek from the Ohio-Indiana state line to the confluence with the Stillwater. Miles designated (approximate): Scenic 83, Recreational 10
- **Chagrin River** - Aurora Branch from St. Rt. 82 bridge downstream to confluence with Chagrin. Chagrin River from confluence with Aurora Branch downstream to St. Rt. 6 bridge. East Branch from Heath Road bridge downstream to confluence with Chagrin. Miles designated (approximate): 49
- **Big and Little Darby Creeks** - Big Darby Creek from the Champaign-Union County line downstream to the U.S. Rt. 40 Bridge, from the northern boundary of Battelle-Darby Creek Metro Park to the confluence with the Little Darby Creek downstream to the Scioto River. Little Darby Creek from the Lafayette-Plain City Road Bridge downstream to the confluence with Big Darby Creek. Miles designated (approximate): 84
- **Kokosing River** - Knox/Morrow County line to confluence with Mohican River. North Branch of Kokosing from confluence with East Branch downstream to confluence with main stem. Miles designated (approximate): 48

**G. OHIO STATE CERTIFICATION GENERAL CONDITIONS FOR
NATIONWIDE PERMITS.**

**PART 1: NATIONWIDE PERMITS (NWP's) - GENERAL LIMITATIONS AND
CONDITIONS**

A) Streams:

- 1) Temporary or permanent impacts to intermittent and perennial streams for any single and complete project are limited to a maximum of two hundred (200) linear feet [except for NWP's 3, 12, 21, 27, and 41];
- 2) Temporary or permanent impacts to ephemeral streams for any single and complete project are limited to a maximum of three hundred (300) linear feet [except for NWP's 3, 12, 21, 27, and 41];
- 3) Temporary or permanent impacts to Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation, or with an antidegradation category of State Resource Water, Superior High Quality Water (except as it applies to Lake Erie), Outstanding National Resource Waters, or Outstanding High Quality Waters are prohibited [except for NWP 3 and maintenance activities covered under NWP 7, 12, and 33], Ohio Stream Designation list attached;
- 4) Temporary or permanent impacts to the designated portions of national or state scenic rivers are prohibited [except for NWP 3 and maintenance activities covered under NWP 12];
- 5) Stream reconstruction activities shall adhere to natural channel design techniques;
- 6) Off-site stream or buffer improvements and/or mitigative measures required by the Corps
 - a) In order of priority, these measures shall focus on 1) the stream segment being impacted, 2) upstream segments and tributaries, 3) the receiving stream. The measures should, to the extent practicable, consider the causes and sources of impairment of the stream where the measures would be undertaken if the stream is listed as impaired in the most recent final report submitted to the United States environmental protection agency by the director of Ohio EPA to fulfill the requirements of Section 303(d) of the Clean Water Act. The current list of impaired streams, as of the date of this certification, can be found on the Ohio EPA web site at:
<http://www.epa.state.oh.us/dsw/tmdl/303dnotc.html>
(Tables 1 through 6).
 - b) If the applicant cannot find appropriate mitigation on streams listed in section a) above, mitigation shall be in the Ohio EPA 8-digit watershed.
- 7) On-site stream or buffer improvements and/or mitigative measures required by the Corps:
 - a) Vegetative buffers on both stream banks an appropriate length; and
 - b) A minimum width of 25 feet for preservation of existing vegetative buffers; or
 - c) A minimum width of 50 feet for re-vegetating buffers cleared during construction.
- 8) Compensatory mitigation for linear projects (e.g., highways) in streams may be mitigated for by the following, in descending order of practicability:

- a) Stream impacts associated with a linear project may be mitigated on-site, defined as within one mile of the linear project, in each Ohio EPA 8-digit watershed as shown in OAC 3745-1-54(F)(2); or
- b) Stream impacts associated with a linear project may be mitigated at a single stream mitigation location or stream mitigation bank (if and when such a bank is established), acceptable to the director, within each Ohio EPA 8-digit watershed in which such impacts occur; or
- c) If no stream mitigation bank, acceptable to the director, is located within the Ohio EPA 8-digit watershed in which the impact occurs, then mitigation may occur in another Ohio EPA 8-digit watershed impacted by the linear project; at a single stream mitigation location, or a stream mitigation bank, acceptable to the director; or
- d) If no stream mitigation bank exists within any of the watersheds connected with the linear project, then mitigation should occur within the watershed in which the largest impacts (in terms of area) occur.

B) Wetlands:

- 1) Temporary or permanent impacts to Category 3 wetlands are prohibited.
- 2) Temporary or permanent impacts to Category 1 and 2 wetlands for any single and complete project are limited to a maximum total of ½ acre [except for NWP 21 & 27].
- 3) Wetland mitigation shall adhere to the requirements set forth in Ohio EPA's Wetland Water Quality Standards (OAC 3745-1-50 through 54). [In the event that suitable mitigation cannot be located on-site (within one mile) or within the watershed, mitigation may be located outside of the watershed if there are significant ecological reasons to do so].

C) General:

- 1) Impacts shall be measured linearly from upstream to downstream, including the length of stream impoundments, when calculating the total length of stream impacts [except for NWP 12, for which impacts shall be measured bank-to-bank].
- 2) NWPs cannot be combined to increase any of the aforementioned limitations.
- 3) Authorization under this Certification does not relieve the permittee from the responsibility of obtaining any other federal, state or local permits, approvals or authorizations required by law, including without limitation, National Pollutant Discharge Elimination System (NPDES) permits or Permits to install (PTIs).
- 4) In order to control pollution of public waters by soil sediment from accelerated stream channel erosion and flood plain erosion caused by accelerated stormwater runoff from development areas, permittees shall comply with Ohio Administrative Code 1501:15-1-05 Stream Channel and Floodplain Erosion, or successor rule, as applicable to the project pursuant to OAC 1501:15-1-02.
- 5) OAC 1501:15-1-05 states that the peak rates of runoff from an area after development may be no greater than the peak rates of runoff from the same area before development for all twenty-four-hour storms from one to one-hundred-year frequency.
- 6) Locally required post development stormwater ponds shall incorporate specific design features for water quality such as those listed in Chapter One of the Ohio Department of Natural Resource's *Rainwater and Land Development: Ohio's*

Standards for Stormwater Management, Land Development and Urban Stream Protection. 2nd Ed. Mecklenburg, Dan. Ohio Department of Natural Resources, Division of Soil and Water Conservation. 1996 (or successor document), to the

extent allowed by local stormwater requirements. These features include: infiltration trenches, extended detention, wet pools, forebays, aquatic benches and wetlands, optimum flow length, reverse flow pipe, optimum pool depth, shading and buffer plants, and runoff reuse.

- 7) The Best Management Practices (BMPs) listed below shall be utilized with all NWP's, when applicable.
 - a) The filling of, and discharge of dredged material into, Category 3 wetlands is prohibited under this permit;
 - b) Only suitable material, free of toxic contaminants in other than trace quantities, shall be used as fill material;
 - c) The use of asphalt and rubber tires as fill is prohibited under this permit;
 - d) All hydric topsoil removed from a trench shall be separated and saved for later placement as the topmost backfill layer when the trench is refilled;
 - e) The stockpiling of side-cast dredged material in wetlands in excess of three (3) months is prohibited;
 - f) The applicant will comply with all requirements for final stabilization of the site contained in applicable NPDES construction stormwater permits for the site;
 - g) Vegetated buffer strips extending to the top of both stream banks and beyond as stipulated by the Corps or Ohio EPA, using native tree and shrub species with rapid growth characteristics, shall be planted as soon as practicable after impacting stream channel slopes;
 - h) Impacts to surface water buffer vegetation shall be minimized to the maximum extent practicable;
 - i) Excavating equipment shall not be placed below the Ordinary High Water Mark (OHWM) of any surface water, except when no other alternative is practicable. When no other alternative is practicable to placing excavating equipment below the OHWM, entry to surface waters shall be through a single point of access per stream bank whenever practicable to minimize disturbance to buffer vegetation;
 - j) In-stream activities shall not result in the permanent destabilization of the stream banks or stream bed so that degradation to aquatic habitat from turbidity, erosion or scouring is minimized;
 - k) In-stream work shall be conducted during low-flow conditions whenever practicable in order to minimize adverse impacts to water quality away from the project site, except in cases of emergency situations which threaten human life or property;
 - l) All dredged material placed at an upland site shall be controlled so that sediment runoff to remaining streams and wetlands is minimized to the maximum extent practicable; and
 - m) Disturbed areas shall be controlled so that sediment runoff to remaining streams and wetlands is minimized to the maximum extent practicable.

OHIO STREAM DESIGNATIONS

HUNTINGTON DISTRICT

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
09-06	Abe Run	Scioto Brush Cr.	*						
17-08	Ada Run	East Fork Eagle Cr.	*						
24-05	Aldridge Run	West Branch Wolf Cr.	*						
24-06	Allen Run	Little Olive Green Cr.	*						
	Alum Cr. - headwaters to West Branch (RM 42.8)	Big Walnut Cr.				Y			
	Archers Fork	Little Muskingum R.				Y			
	Arney Run - Black Run (RM 2.2) to the mouth	Clear Cr.				Y			
17-09	Asher Run	Ohio Brush Cr.	*						
09-04	Bailey Run	Mill Cr.	*						
24-08	Bald Eagle Run	Muskingum R.	*						
17-15	Barbara Run	Turkey Cr.			*				
17-06	Barr Run	North Fork Whiteoak Cr.	*						
09-20	Barron Cr.	Little Darby Cr.	*						
17-07	Baylor Run	Eagle Cr.	*						
09-03	Bear Cr.	Scioto Brush Cr.	*						
24-39	Beaver Run	Walhonding R.	+						
09-03	Beech Fork	S. Fork Scioto Brush Cr.	*						
09-12	Beech Fork (Salt Cr. RM 34.1)	Salt Cr.	+			Y			
17-07	Beetle Cr.	Eagle Cr.	*						
24-11	Berry Run	Valley Run	*						
	Big Darby Cr.	Scioto R.					Y		
	Big Darby Cr. - confluence w/ Little Darby Cr. to mouth	Scioto R.						Y	
	Big Darby Cr. - Champaign/Union County line to Conrail railroad trestle	Scioto R.						Y	
	Big Darby Cr. - Champaign/Union County line to U.S. 40 Bridge	Scioto R.							Y
	Big Darby Cr. - north boundary Battelle-Darby Cr. Metro Park to mouth	Scioto R.							Y
08-02	Big Run	Federal Cr.	+			Y			
09-03	Big Run	Spruce Run	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
17-08	Big Run	Threemile Cr.	*						
17-10	Big Run	Georges Cr.	*						
24-37	Big Run	Killbuck Cr.	+						
09-23	Big Walnut Cr. - Hoover Reservoir	Scioto R.	*						
	Big Walnut Cr. - Rocky Fork (RM 28.3) to the mouth	Scioto R.				Y			
09-22	Big Walnut Cr. - Williams Road (RM 15.8) to the mouth	Scioto R.	+						
17-10	Black Run	Ohio Brush Cr.	*						
09-15	Blinco Branch	Rocky Fork	*						
09-05	Bloody Run	Scioto Brush Cr.	*						
09-04	Blue Cr.	Churn Cr.	*			Y			
09-05	Bolander Run	Churn Cr.	*						
24-04	Bosman Run	Duck Cr.	*						
09-18	Bradford Cr. - RM 6.1 to the mouth	Deer Cr.	+						
17-06	Brady Run	Straight Cr.	*						
08-03	Brill Run	Marietta Run	+			Y			
24-05	Browns Run	South Branch Wolf Cr.	*						
24-04	Browns Run	West Branch Wolf Cr.	*						
17-15	Brush Fork	Pond Lick Run			*				
17-05	Brush Run	Flat Run	*						
17-07	Brushy Fork	Eagle Cr.	*						
24-18	Brushy Fork	Wakatomika Cr.	+						
08-04	Bryson Branch	McDougal Branch	*						
17-15	Buck Lick (Formerly Steep Gut)	Turkey Cr.			*				
17-06	Buck Run	Straight Cr.	*						
24-05	Buck Run	West Branch Wolf Cr.	*						
09-11	Buckeye Cr. and tributaries and Jisco Lake tributaries	Salt Lick Cr.	*						
24-05	Buckeye Run	Coal Run	*						
24-37	Bucklew Run	Killbuck Cr.	+						
17-06	Bull Run	Washburn Run	*						
17-10	Bundle Run	Ohio Brush Cr.	*						
09-04	Burr Run	Mill Cr.	*						
	Buskirk Cr.	Deer Cr.				Y			
09-18	Buskirk Cr. - RM 2.7 to the mouth	Deer Cr.	+						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
24-06	Dinner Fork	Sharon Fork	*						
	Dismal Cr.	Witten Fork				Y			
09-04	Dry Fork	Turkey Cr.	*						
09-06	Dry Fork	Rarden Cr.	*						
09-05	Dry Run	Scioto Brush Cr.	*						
17-08	Dry Run	Threemile Cr.	*						
08-07	Duck Cr.	Clear Fork	*						
24-04	Duck Cr.	Wolf Cr.	*						
09-02	Duck Run	Scioto Brush Cr.	*						
09-06	Dunlap Cr.	Scioto Brush Cr.	*						
09-05	Early Run	Scioto Brush Cr.	*						
09-02	East Branch	McCullough Cr.	*						
24-40	East Branch	Jelloway Cr.	+						
	East Branch Jelloway Cr.	Jelloway Cr.				Y			
16-20	East Branch Shade R.	Shade R.	*						
08-06	East Branch Sunday Cr. - headwaters to Burr Oak Reservoir	Sunday Cr.	*						
09-11	East Fork Queer Cr.	Queer Cr.	+			Y			
08-02	East Fourmile Cr.	Fourmile Cr.	*						
17-10	Easter Run	Ohio Brush Cr.	*						
24-06	Elk Run	Olive Green Cr.	*						
08-03	Ellis Run	Big Run	+						
09-04	Ellis Run	Middle Branch Mill Cr.	*						
17-08	Ellis Run	Threemile Cr.	*						
17-06	Evans Run	Straight Cr.	*						
08-04	Ewing Run	Linscott Run	*						
09-15	Factory Branch	Rocky Fork	*						
08-03	Federal Cr.	Hocking R.	+						
	Federal Cr. - Hyde Fork (RM 16.21) to the mouth	Hocking R.				Y			
24-18	Fivemile Run	Wakatomika Cr.	+						
17-05	Flat Run	N. Fork Whiteoak Cr.	*						
24-04	Flint Run	Wolf Cr.	*						
16-21	Forked Run - headwaters to Forked Run Reservoir	Ohio R.	*						
08-02	Fourmile Cr.	Hocking R.	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
09-15	Franklin Branch	Rocky Fork	*						
17-10	Georges Cr.	West Fork Ohio Brush Cr.	*						
09-05	Glen Run	Blue Cr.	*						
17-08	Gordon Run	Hills Fork	*						
24-05	Goshen Cr.	West Branch Wolf Cr.	*						
	Grace Run	Cherry Fork				Y			
24-04	Halfway Run	South Branch Wolf Cr.	*						
17-08	Hannah Run	East Fork Eagle Cr.	*						
17-15	Harber Fork	Turkey Cr.			*				
	Hay Run	Deer Cr.				Y			
24-04	Hayward Run	Wolf Cr.	*						
09-15	Heads Branch	Rocky Fork	*						
24-06	Hedgehog Cr.	West Branch Wolf Cr.	*						
	Heilbranch Run - Kropp road RM (5.04) to the mouth	Big Darby Cr.							
09-04	Hickman Run	M.Fk.ofM.Br. Mill Cr.	*						
17-08	Hills Fork	East Fork Eagle Cr.	*						
09-05	Hog Run	Churn Cr.	*						
09-05	Hollow Fork (Formerly Haw Fork)	Churn Cr.	*						
17-06	Honey Run	Straight Cr.	*						
24-04	Horse Run	South Branch Wolf Cr.	*						
09-20	Howard Run	Treacle Cr.	*						
09-16	Hussey Run	Clear Cr.	*						
08-04	Hyde Branch	Hyde Fork	*						
08-04	Hyde Fork	Federal Cr.	*						
17-07	Indian Lick	Eagle Cr.	*						
17-04	Indian Run	Whiteoak Cr.	*						
17-05	Indian Run	North Fork Whiteoak Cr.	*						
	Indianfield Run	Kokosing R.				Y			
24-40	Jelloway Cr.	Kokosing R.	+			Y			
09-06	Jessie Run	Scioto Brush Cr.	*						
08-03	Joos Run	Big Run	+			Y			
09-05	Johnson Run	Churn Cr.	*						
24-10	Jonathan Cr. - headwaters to confluence with Turkey Run	Moxahala Cr.	*						
08-02	Jordan Run	Hocking R.	+						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
08-03	Joy Run	Sharps Fork	*						
09-20	Jumping Run	Lake Run	*						
24-06	Keith Fork	Olive Green Cr.	*						
24-06	Kickapoo Cr.	West Branch Wolf Cr.	*						
09-17	Kinnikinnick Cr.	Scioto R.	+						
	Kokosing R.	Walhonding R.					Y		
	Kokosing R. - Knox/Morrow County line to mouth	Walhonding R.							Y
24-39	Kokosing R. - North Branch (RM 29.7) to confluence with Walhonding R.	Walhonding R.	+						
17-07	Lafferty Run	Eagle Cr.	*						
09-20	Lake Run	Little Darby Cr.	*						
17-13	Lampblack Run	Turkey Cr.			*				
09-04	Laurel Run	S. Fork Scioto Brush Cr.	*						
09-05	Laurel Run	Scioto Brush Cr.	*						
09-12	Laurel Run	Salt Cr.	+			Y			
24-05	Laurel Run	West Branch Wolf Cr.	*						
09-03	Left Fork	Straight Fork	*						
13-09	Leith Run	Ohio R.	+			Y			
17-07	Levanna Branch	Ohio R.	*						
17-10	Lick Cr.	Ohio Brush Cr.	*						
17-06	Lick Run	North Fork Whiteoak Cr.	*						
17-08	Lick Run	Hills Fork	*						
24-05	Lick Run	Aldridge Run	*						
24-13	Licking R. - Dillon Lake (RM 12.7 to 6.2)	Muskingum R.	+						
24-06	Limestone Run	Keith Fork	*						
08-04	Linscott Run	Federal Cr.	*						
09-03	Liston Run	S. Fork Scioto Brush Cr.	*						
	Little Darby Cr. - Lafayette-Plain City Road Bridge to RM 0.8	Big Darby Cr.						Y	
	Little Darby Cr. - Lafayette-Plain City Road Bridge to mouth	Big Darby Cr.							Y
	Little Darby Cr.	Big Darby Cr.				Y	Y		
09-20	Little Darby Cr.	Darby Cr.	+						
24-40	Little Jelloway Cr.	Jelloway Cr.	+						
24-37	Little Mill Cr.	Mill Cr.	+						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
13-05	Little Muskingum R.	Ohio R.	+						
	Little Muskingum R. - Witten Fork (RM 46.44) to Fifteen Mile Cr. (RM 14.75)	Ohio R.							
17-05	Little North Fork	North Fork Whiteoak Cr.	*			Y			
24-06	Little Olive Green Cr.	Olive Green Cr.	*						
16-12	Little Raccoon Cr. - Lake Rupert	Raccoon Cr.	*						
09-03	Little Spruce Run	Spruce Run	*						
09-21	Little Walnut Cr. - headwaters to Turkey Run (RM 3.0)	Walnut Cr.	+						
24-05	Little Wolf Cr.	West Branch Wolf Cr.	*						
09-03	Long Fork	Bear Cr.	*						
	Long Run	Rocky Fork				Y			
17-10	Louise Tributary	Lick Cr.	*						
	Lower Twin Cr.	Ohio R.				Y			
24-05	Lucas Run	West Branch Wolf Cr.	*						
17-09	Mackenzie Run	Ohio Brush Cr.	*						
17-15	Mackletree Run	Turkey Cr.		*					
08-04	Margaret Cr. - headwaters to S.R. 682	Hocking R.	*						
	Marietta Run	Federal Cr.				Y			
16-13	McConnel Run	Little Raccoon Cr.	*						
09-02	McCullough Cr.	Scioto Brush Cr.	*			Y			
08-03	McElfresh Run	Sharps Fork	*						
24-05	McPherson Run	West Branch Wolf Cr.	*						
09-04	Middle Branch	Mill Cr.	*						
16-20	Middle Branch Shade R.	Shade R.	*						
09-04	Middle Fork	Middle Branch Mill Cr.	*						
09-12	Middle Fork Laurel Run	Laurel Run	+			Y			
	Middle Fork Salt Cr.	Salt Cr.				Y			
24-05	Mile Run	Coal Run	*						
09-04	Mill Cr.	S. Fork Scioto Brush Cr.	*			Y			
24-36	Mill Cr.	Walbonding R.	+						
08-04	Miners Fork	Hyde Fork	*						
09-05	Minque Run	Blue Cr.	*						
17-04	Miranda Run	Whiteoak Cr.	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
	Mohican R. - Rocky Fork (RM 27.60) to an unnamed tributary (RM 16.10)	Walhonding R.							
09-05	Moon Run	Blue Cr.	*			Y			
17-10	Moore Run	Beasley Fork	*						
	Morgan Fork	Sunfish Cr.				Y			
17-08	Morley Run	Threemile Cr.	*						
09-06	Mullen Run	Scioto Brush Cr.	*						
08-04	Mush Run	McDougall Branch	*						
	Muskingum R. - confluence of Tuscarawas and Walhonding R.s (RM 111.13) to SR 208 (RM 92.0)	Ohio R.							
	Muskingum R. - Licking R. (RM 76.20) to Moxahala Cr. (RM 73.50)	Ohio R.				Y			
	Muskingum R. - Salt Cr. (RM 67.03) to Branch Run (RM 52.58)	Ohio R.				Y			
	Muskingum R. - McConnelville dam (RM 49.0) to Madison Run (RM 34.4)	Ohio R.				Y			
	Muskingum R. - Beverly dam (RM 24.9) to Cushing Run (RM 18.77)	Ohio R.				Y			
	Muskingum R. - Lowell dam (RM 14.1) to Rainbow Cr. (RM 7.7)	Ohio R.				Y			
	Muskingum R. - Devola dam (RM 5.77) to the mouth	Ohio R.				Y			
17-06	Myers Run	Straight Cr.	*						
17-07	Myers Run	Cornick Run	*						
	Nellis Run	Big run				Y			
08-09	New Lexington Reservoir	Yeager Cr.	*						
24-05	North Branch	Coal Run	*						
09-24	North Branch French Run	French Run	+						
	North Branch Kokosing R.	Kokosing R.					Y		

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
	North Branch Kokosing R. - East Branch to mouth	Kokosing R.							
09-13	North Fork Paint Cr.	Paint Cr.	+						Y
	North Fork Paint Cr. - Compton Cr. (RM 24.57) to the mouth	Paint Cr.					Y		
17-14	Odell Cr.	Turkey Cr.			*				
17-09	Ohio Brush Cr. - headwaters to Beasley Fork Road (RM 6.3)	Ohio R.	+			Y			
17-15	Old Lade Run	Turkey Cr.			*				
	Olentangy R. - Delaware dam (RM 32.35) to Old Wilson Bridge road (RM 11.45)	Scioto R.							
09-27	Olentangy R. - Old Winter Road (RM 20.4) to I-270 (RM 11.6)	Scioto R.	+						
24-06	Olive Green Cr.	Muskingum R.	*			Y			
	Opossum Cr.	Ohio R.							
08-03	Opossum Run	Sharps Fork	*						
24-38	Paint Cr.	Killbuck Cr.	+						
	Paint Cr. - Rocky Fork (RM 37.12) to North Fork (RM 3.80)	Scioto R.							
09-13	Paint Cr. - U.S. Route 35 (RM 67.4) to SR 772 (RM 3.8)	Scioto R.	+				Y		
24-04	Painter Run	South Branch Wolf Cr.	*						
24-11	Painter Run	Jonathan Cr.	*						
	Painter Run	Rocky Fork				Y			
13-02	Pawpaw Cr.	East Fork Duck Cr.	+						
24-06	Peeper Run	West Branch Wolf Cr.	*						
09-15	Pickett Run	Rocky Fork	*						
	Pine Cr.	Salt Cr.				Y			
	Pine Cr. - Hales Cr. (RM 38.15) to the mouth	Ohio R.				Y			
	Piney Fork	Sunfish Cr.				Y			
	Pleasant Run	Big Darby Cr.					Y		
09-21	Pleasant Run	Darby Cr.	+						
24-05	Pleasant Run	West Branch Wolf Cr.	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EW	SSH	CWH	SHQW	OSW	CRW	W & S
17-04	Plum Cr.	Sterling Run	*						
09-06	Plum Run	Cedar Fork	*						
09-12	Plum Run	Salt Cr.	+						
09-15	Plum Run	Rocky Fork	*						
17-15	Plummer Fork	Mackletree Run			*				
09-11	Poe Run	Salt Cr.	+						
17-15	Pond Lick Run	Turkey Cr.			*				
09-22	Poplar Cr.	Walnut Cr.	+						
09-11	Pretty Run	Salt Cr.	+			Y			
09-20	Proctor Run	Treacle Cr.	*			Y			
09-15	Puncheon Run	Rocky Fork	*						
09-11	Queer Cr.	Salt Cr.	+			Y			
09-04	Randall Run	Mill Cr.	*			Y			
17-06	Rangle Run	Straight Cr.	*						
09-06	Rarden Cr.	Scioto Brush Cr.	*			Y			
24-06	Reasoners Run	Olive Green Cr.	*						
09-03	Right Fork	Bear Cr.	*						
17-15	Rock Lick	Pond Lick Run			*				
17-15	Rock Lick	Turkey Cr.			*				
	Rocky Fork	Licking R.					Y		
09-03	Rocky Fork	S. Fork Scioto Brush Cr.	*						
09-15	Rocky Fork	Paint Cr.	*						
	Rocky Fork - headwaters to Rocky Fork lake (RM 16.88)	Paint Cr.							
24-14	Rocky Fork - East Branch to the the mouth	Licking R.	+						
09-25	Rocky Fork - U.S. Route 62 (RM 5.1) to the mouth	Big Walnut Cr.	+			Y			
17-06	Rocky Run	Straight Cr.	*						
17-05	Ruble Run	North Fork Whiteoak Cr.	*						
09-06	Salome Run	Dry Run	*						
09-10	Salt Cr.	Scioto R.	*				Y		
09-03	Saw Pit Run	Bear Cr.	*						
17-15	Scantling Run	Old Lade Run			*				
24-40	Schenck Cr.	Kokosing R.	+			Y			
09-02	Scioto Brush Cr.	Scioto R.	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
	Scioto Brush Cr. - headwaters to McCullough Cr. (RM 10.2)	Scioto R.				Y			
	Scioto Brush Cr. - McCullough Cr. (RM 10.20) to the mouth	Scioto R.					Y		
	Scioto R. - Indian Run (RM 145.18) to Olentangy R. (RM 132.33)	Ohio R.				Y			
	Scioto R. - Scioto Big Run (RM 124.40) to Scioppo Cr. (RM 89.61)	Ohio R.							
	Scioto R. - Paint Cr. (RM 63.50) to Salt Cr. (RM 51.18)	Ohio R.				Y			
	Scioto R. - Scioto Brush Cr. (RM 9.2) to the mouth	Ohio R.				Y			
09-19	Scioppo Cr. - Old Tarlton Pike (RM 14.8) to the mouth	Scioto R.	+			Y			
17-06	Scott Run	Straight Cr.	*						
24-05	Scott Run	Aldridge Run	*						
24-06	Scott Run	Little Olive Green Cr.	*						
17-10	Simple Cr.	Ohio Brush Cr.	*						
24-06	Sharon Fork	Olive Green Cr.	*						
08-03	Sharps Run	Federal Cr.	0						
09-04	Shawnee Cr.	S. Fork Scioto Brush Cr.	*						
17-06	Sheep Run	Straight Cr.	*						
17-04	Shot Pouch Run	Whiteoak Cr.	*						
24-05	Shrader Run	Coal Run	*						
17-06	Sink Cr.	Straight Cr.	*						
09-05	Slate Fork	Churn Cr.	*						
09-03	Slate Run	Scioto Brush Cr.	*						
17-08	Slickaway Run	Threemile Cr.	*						
09-15	Smith Branch	Rocky Fork	*						
17-10	Soldiers Run	Ohio Brush Cr.	*						
08-09	Somerset Reservoir	Center Branch	*						
24-04	South Branch	Wolf Cr.	*						
09-03	South Fork	Scioto Brush Cr.	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
	South Fork Scioto Brush Cr. - Shawnee Cr. (RM 8.3) to the mouth	Scioto Brush Cr.				Y	Y		
09-16	South Fork	Rocky Fork	*						
24-04	South Fork	South Branch Wolf Cr.	*						
24-04	Southwest Fork	South Branch Wolf Cr.	*						
	Spain Cr.	Big Darby Cr.				Y			
17-10	Spoon R.	West Fork Ohio Brush Cr.	*						
09-20	Spring Fork	Little Darby Cr.	*			Y			
08-03	Spring Run	Federal Cr.	+			Y			
09-03	Spruce Run	Rocky Fork	*						
09-05	Staley Run	Dry Run	*						
17-04	Sterling Run - Grant Lake Wildlife Area (RM 5.4 to RM 3.0)	Whiteoak Cr.	*						
17-06	Stony Branch	North Fork Whiteoak Cr.	*						
24-06	Stony Cr.	Olive Green Cr.	*						
09-03	Stony Run	Scioto Brush Cr.	*						
09-03	Straight Fork	Bear Cr.	*						
08-04	Stroud Run	Hocking R.	*						
17-07	Suck Run	Eagle Cr.	*						
08-04	Sugar Run	Mush Run	*						
09-18	Sugar Run	Deer Cr.	+						
09-03	Sugarcamp Run	Rocky Fork	*						
09-05	Sugarcamp Run	Dry Run	*						
	Sunfish Cr. - headwaters to Negro Run (RM 1.7)	Ohio R.				Y			
17-07	Sutherland Run	West Fork Redoak Cr.	*						
09-02	Sweeney Run	Scioto Brush Cr.	*						
17-07	Sycamore Run	Straight Cr.	*						
09-06	Thompson Run	Scioto Brush Cr.	*						
17-07	Town Branch	East Fork Eagle Cr.	*						
09-20	Treacle Cr.	Little Darby Cr.	*						
17-10	Treber Run	Lick Cr.	*						
09-04	Turkey Cr.	S. Fork Scioto Brush Cr.	*						
	Turkey Cr.	Ohio R.				Y			
17-14	Turkey Cr. - headwaters to Friendship (RM 4.0)	Ohio R.	+			Y			
09-04	Turkey Run	S. Fork Scioto Brush Cr.	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
09-21	Turkey Run	Little Walnut Cr.	+						
24-36	Turkey Run	Mill Cr.	+						
24-04	Turkeyhen Run	Sugartree Fork				Y			
24-24	Tuscarawas R. - Stillwater Cr. (RM 47.0) to Coshocton city limits (RM 1.9)	South Branch Wolf Cr.	*						
		Muskingum R.	+						
09-06	U P Run	Dry Run	*						
17-04	Unity Cr.	Whiteoak Cr.	*						
24-13	Unnamed tributary (Big Run RM 1.30)	Big Run			+				
24-14	Unnamed tributary (Big Run RM 2.63)	Big Run			+				
24-13	Unnamed tributary (Timber Run RM 5.02)	Timber Run			+				
	Upper Twin Cr.	Ohio R.				Y			
24-11	Valley Run	Jonathan Cr.	*						
17-09	Waggoner Run	Ohio Brush Cr.	*						
24-18	Wakatomika Cr.	Muskingum R.	+				Y		
24-36	Walhonding R.	Muskingum R.	+				Y		
09-04	Walker Run	S. Fork Scioto Brush Cr.	*						
09-12	Walnut Cr.	Scioto R.	+						
17-06	Washburn Run	Straight Cr.	*						
17-08	Washburn Run	East Fork Eagle Cr.	*						
09-03	Watts Run	Bear Cr.	*						
17-15	Wes Run	Turkey Cr.			*				
24-05	West Branch	Wolf Cr.	*						
	West Branch Alum Cr. - Ashley West Liberty road (RM 5.09) to the mouth	Alum Cr.							
						Y			
17-06	West Fork	Straight Cr.	*						
17-07	West Fork	Redoak Cr.	*						
17-10	West Fork	Ohio Brush Cr.	*						
	West Fork - Buck Run (RM 9.0) to the mouth	Ohio Brush Cr.				Y			
09-28	Whetstone Cr. - headwaters to SR 229 (RM 2.6)	Olentangy R.	+						
17-04	Whiteoak Cr.	Ohio R.	+						
09-05	Whites Run	Scioto Brush Cr.	*						
24-05	Whitewater Cr.	West Branch Wolf Cr.	*						
17-07	Wild Duck Branch	Suck Run	*						

OAC 3745-1 PG	SEGMENT	TRIBUTARY TO	EWI	SSH	CWH	SHQW	OSW	CRW	W & S
08-03	Wildcat Run	Big Run	+			Y			
16-13	Williams Run	Strong's Run	*						
24-18	Winding Fork	Wakatomika Cr.	+			Y			
09-04	Winterstein Run	S. Fork Scioto Brush Cr.	*			Y			
	Witten Fork	Little Muskingum R.				Y			
13-06	Witten Run	Clear Fork	+			Y			
24-04	Wolf Cr.	Muskingum R.	*						
17-15	Wolfden Run	Turkey Cr.			*				
08-03	Wyatt Run	McDougall Branch	*						
17-05	Yellow Run	North Fork Whiteoak Cr.	*						
09-19	Yellowbud Cr. - Upstream Ebenhack Road (RM 3.0) to the mouth	Scioto R.	+						

Abbreviations:

CWH = Coldwater Habitat

CRW = Critical Resource Waters (Includes streams in National Wild and Scenic River System)

EWI = Exceptional Warmwater Habitat

OAC = Ohio Administrative Code

OSW = Outstanding State Waters

SHQW = Superior High Quality Waters

SSH = Seasonal Salmonid Habitat

W & S = State Wild & Scenic Rivers

+ -- Designated use based on the results of a biological field assessment performed by the Ohio EPA

* -- Designated use based on the 1978 water quality standards

o -- Designated use based on justification other than the results of a biological field assessment performed by the Ohio EPA

CRW -- Designated by Corps of Engineers

W & S -- Designated under Scenic Rivers Act

OSW, SHQW -- State Resource Waters designated under Antidegradation Rules (OAC 3745 - 1 - 05)

CWH, EWI, OSW, SHQW, SSH -- Any impacts require Individual 401 Water Quality Certification [Except NWP 3 and maintenance activities covered under NWP 7, 12, and 33]

CRW, W & S -- Notification required to COE for all activities